

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, February 1, 2001

Division Four

A088164 -- The People v. Bambi Lynn Boyer.

The judgment is affirmed. Chiantelli, J.* We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091056 -- In re Channa C., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Sepulveda, Acting P.J. We Concur: Kay, J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090667 -- The People v. Richard Jeffery Gates.

The order reinstating criminal proceedings and imposing appellant's previously stayed state prison term is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

A090263 -- John Donnellan v. City Council of the City of Novato; City of Novato, R.P.I.

The judgment is reversed, and the matter is remanded to the trial court with instructions to reinstate the petition. Richman, J.* We concur: Jones, P. J., Stevens, J. (Certified for Publication)

*Judge of the Alameda Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, February 1, 2001 (continued)

A090875 -- The People v. David A. Modica.

The judgment is affirmed. Richman, J.* We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the Alameda Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089493 -- The People ex rel. Louise H. Renne, as City Attorney, etc. v. Patrick Servantes.

The judgment is affirmed. Richman, J.* We concur: Jones, P. J., Stevens, J. (Certified for Partial Publication)

*Judge of the Alameda Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088598 -- The People v. John Chandler Thomas.

The judgment is affirmed. Richman, J.* We concur: Jones, P. J., Stevens, J. (Not for Publication.)

*Judge of the Alameda Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, February 2, 2001

Division Two

A088233 -- Mark Swendsen et al. v. Don Hyde et al.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J.
(Not for Publication.)

Monday, February 5, 2001

Division One

A092241 -- Martin Kantoff v. Res Engineers, Inc.

By the Court: Appellant's having filed an abandonment of their appeal's in this court, the appeal and cross/appeal are dismissed and the remittitur is to issue forthwith. Strankman, P.J.

Division Two

A091271 -- The People v. Rickey Wayne Bradley.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A091037 -- In re Jacob D., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A091472 -- Kurt Dorsey v. Department of Motor Vehicles.

The writ is denied. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A090068 -- In re Steven F., a Person Coming Under the Juvenile Court Law.

The order terminating parental rights is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A088732 -- The People v. Marcus Geroy McGinnis.

The imposition of sentence is vacated and the matter is remanded for further proceedings not inconsistent with this opinion. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, February 5, 2001 (continued)

A090260 -- Celeste Della Zoppa v. Joseph Della Zoppa.

The judgment is reversed and the case remanded to the trial court for further proceedings not inconsistent with this opinion. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

Division Five

A093158 -- American Contractors Indemnity Company v. The Superior Court of Solano County; Steiny and Company, Inc., R.P.I.

We have reached our decision after giving notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) ACIC's entitlement to relief is obvious, and no useful purpose would be served by oral argument. (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.) Let a peremptory writ of mandate issue commanding respondent superior court to vacate the order denying ACIC's motion to quash service of summons and complaint and for order striking Doe amendment, and thereafter enter a new order granting ACIC's motion. ACIC shall recover its costs. (Cal. Rules of Court, rule 56.4.) Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A087015 -- The People v. Tai Choi.

The judgment of conviction is affirmed in part and reversed in part, as follows. The convictions on count five relating to the Florin-Kline property and count six relating to the Bodle burglary are reversed, and the duplicative convictions for receiving stolen property in violation of section 496, counts three, four, and seven, and the stayed sentences imposed on those counts are vacated. The second of the two five-year sentence enhancements imposed under section 667, subdivision (a), is also vacated. The judgment of conviction is otherwise affirmed. The matter is remanded to the trial court, with instructions to resentence appellant accordingly. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, February 6, 2001

Division One

A089791 -- The People v. John Arthur Annibel.

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A090799 -- In re Aaron Collins, on Habeas Corpus.

To summarize, we conclude that the policy at issue is reasonably related to legitimate prison security interests at Pelican Bay and is facially valid. Therefore we reverse the trial court's order and remand with directions to enter an order denying the petition for habeas corpus. Strankman, P.J. We Concur: Stein, J., Swager, J. (Certified for Publication.)

A091600 -- The People v. Blaine A. MacIntyre.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A092119 -- The People v. Ahmed Wayne Powers.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A090757 -- James T. Raphael v. County of san Mateo.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

A089680 -- Peter Vilkin v. Mark Solomon.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

February 6, 2001 (continued)

Division Two

A093674 -- James S. Fetherston, et al. v. The Superior Court of Napa County; Ronald A. Unkefer, et al., R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

A093829 -- Veronica I. v. The Superior Court of Lake County; Lake County Department of Social Services, R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied. Petitioner failed to file a timely notice of intent. (Cal. Rules of Court, rule 39.1B(f); *Jonathan M. v. Superior Court* (1995) 39 Cal.App.4th 1826.) Kline, P.J.

A093837 -- Industrial underwriters Insurance Company v. The Superior Court of Contra Costa County; Albert D. Seenoo Construction Company, R.P.I.

By the Court: The petition for writ of mandate is denied as untimely. (Code Civ. Proc. § 437 subd. (1); *Sturm, Ruger & Co. v. Superior Court* (1985) 164 Cal.App.3d 579; *Schmidt v. Superior Court* (1989) 207 Cal.App.3d 56; *Eldridge v. Superior Court* (1989) 208 Cal.App.3d 1350.) Kline, P.J.

A091811 -- In re Mark N., a Person Coming Under the Juvenile Court Law.

Accordingly, the order is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A087146 -- Glualberto Medeiros v. Del Valle Business Park, et al.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Tuesday, February 6, 2001 (continued)

Division Five

A090041 -- Omar Kanaan Aldouri, A minor by and through his guardian ad litem, Rihab Aldouri v. Prism Technologies, Inc., et al.

Summary judgment is improper unless the moving party negates every alternative theory of liability presented in the pleadings. (*Bell v. Industrial Vangas, Inc.* (1981) 30 Cal.3d 268, 271, fn. 1.) Because Prism failed to establish facts demonstrating that the warnings that accompanied the Mityvac were legally adequate, it did not negate appellant's claim of failure to warn and so was not entitled to judgment. The judgment is reversed. Appellant shall receive costs on appeal. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 7, 2001

Division One

A092016 -- Joel Drouet v. The Superior Court of San Francisco County; Jim Broustis et al., R.P.I.

The petition for writ of mandate is granted. Let a writ of mandate issue compelling respondent San Francisco Superior Court to set aside its order denying petitioner's motion for summary adjudication regarding the affirmative defense of retaliatory eviction, and to enter a new and different order granting said motion. Real Parties in Interest retain the right to bring an action for damages under Civil Code section 1942.5, subdivision (f). The parties shall bear their own costs of this writ proceeding. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Publication.)

A093425 -- The People v. Ranger Insurance Company, et al.

Appellant having failed to procure the record on appeal the time allowed or within any valid extensions of time, and having failed to show good cause for relief from default, the appeal filed December 4, 2000, is dismissed. (See Cal.Rules of Court, rule 10(c).) Strankman, P.J.

A090768 -- City of County of San Francisco v. WCB II More Limited Partnership, et al.

The order is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A088153 -- The People v. Clyde Rainey.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A093376 -- David S. Eisenmann v. The Superior Court of Contra Costa County; Stephen J. Bonovich et al., R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

Wednesday, February 7, 2001 (continued)

Division Two

A093370 -- Estate of Warren Gonzales.

The motion to dismiss Wheeler's appeal is granted. Haerle, Acting P.J.
We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A090504 -- The People v. Jose De Jesus Quinonez.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

A090563 -- The People v. David Wayne Burns.

Judgment affirmed. Reardon, Acting P.J. We Concur: Kay, J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A087487 -- The People v. Paul Jefferson.

A091382 -- Paul Jefferson v. The Superior Court of Alameda County, The People, R.P.I.

In A087487, the judgment of conviction is affirmed. In A091382, the petition for writ of mandate is denied. Kay, J. We Concur: Sepulveda, Acting P.J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090756 -- In re Kenneth C., Jr., a Person Coming Under the Juvenile Court Law.

The order terminating parental rights is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, February 7, 2001 (continued)

Division Five

**A089538 -- The People , acting by and through the Department of
Transportation v. Nano Maldonado.**

By the Court: The opinion filed on January 10, 2001, is hereby certified for partial publication within the exception of part III.2., pursuant to rule 976.1 of the California Rules of Court. Jones, P.J.

Thursday, February 8, 2001

Division Two

A091624 -- In re Sandra B., a Person Coming Under the Juvenile Court Law. The People v. Sandra B.

The order adjudicating appellant a ward of the court pursuant to Welfare and Institutions Code section 602 and placing her on probation in her mother's home is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A093391 -- Contemporary Services Corporation v. The Superior Court of San Francisco County; San Francisco Forty Niners, Inc., R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

Division Four

A093255 -- Douglas W. Wright v. The Superior Court of the County of Contra Costa; Lisa G. Wright, R.P.I.

We conclude that a peremptory writ should issue in the first instance. We are satisfied that the petition and exhibits on file adequately address the issues raised by the petition, that no factual dispute exists, and that the additional briefing that would follow issuance of an alternative writ is unnecessary to the disposition of this petition. The issue presented concerns a well-settled area of the law and no purpose could reasonably be served by plenary consideration of the issue. (*Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1240; *Palma v. U.S. Industrial Fasteners, Inc.*, *supra*, 36 Cal.3d 171, 180) Therefore, let a peremptory writ of mandate issue directing the respondent court to vacate its order denying Douglas W. Wright's request for separate trial (motion to bifurcate and obtain status judgment) filed on October 13, 2000 in *In re the Marriage of Wright* (Super. Ct. of Contra Costa County, No. D99-04722), and to enter a new and different order granting Douglas W. Wright's request for separate trial (motion to bifurcate and obtain status judgment) on such conditions as the respondent court, in the exercise of its discretion, deems appropriate. Real party in interest shall bear the costs of this proceeding. (California Rules of Court, rule 56.4.) This opinion is final as to this court immediately. (California Rules of Court, rule 24(d).) Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Thursday, February 8, 2001 (continued)

Division Five

A092070 -- In re Golden Eagle Insurance Company in Conservation of Assets.

The order is affirmed. Costs on appeal are awarded to respondents.
Richman, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A090265 -- In re Christian H., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Richman, J.* We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

A088555 -- The People v. Jerry White.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, February 9, 2001

Division One

A086897 -- The People v. Jesse Raphael Martinez.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A091263 -- The People v. Guy Randall O’Ferrall.

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A089666 -- The People v. John Voong.

Finally, we note that appellant’s name is incorrectly spelled as “Woong” on page one of the abstract of judgment. The abstract of judgment should be amended to correct this clerical error. The judgment is affirmed, subject to the correction of appellant’s name on the abstract of judgment. Swager, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

A088025 -- Grace V. Reairdon et al. v. Transamerica Homefirst, Inc., et al.

By the Court: The petition for rehearing is denied. Strankman, A. P. J.

Division Two

A090845 -- The People v. Thomas Patrick Dunn.

The trial court shall review the order of recommitment and correct any inadvertent clerical errors regarding the date the current term of commitment will expire. In all other respects, the order of recommitment is affirmed. Ruvo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Friday, February 9, 2001 (continued)

A090602 -- In re Guillermo L., a Person Coming Under the Juvenile Court Law.

The findings of the trial court were supported by the substantial evidence. The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A093290 -- Ernest M. Thayer v. Wells Fargo Bank, N.A.

The petition for writ of coram vobis is denied. Real party's motion to file its opposition under seal is denied, and the opposition is ordered returned to real party. Kline, P.J.

Division Three

A091404 -- In re Joseph B., a Person Coming Under the Juvenile Court Law.

In sum, the court's decision was an entirely appropriate one. We see no abuse of discretion. (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.) The order of the juvenile court, terminating appellant's parental rights as to Joseph, is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A090903 -- The People v. Raul Hernandez Silva.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

A091014 -- The Mechanics Bank v. Heidi Zwakenberg et al.

The trial court's April 3, 2000 orders are reversed. Parties are to bear their own costs on appeal and no party is entitled to charge the trust estate for said costs. Walker, J. We concur: Corrigan, Acting P. J., Parrilli, J. (Not for Publication.)

Friday, February 9, 2001 (continued)

Division Four

A092256 -- The People v. Robert William Larson.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Tuesday, February 13, 2001

Division One

A091553 -- The People v. Richard Lee Bright.

The judgment is affirmed. Stein, J. We concur: Strankman, P. J., Swager, J. (Not for Publication.)

A091046 -- The People v. Marilyn T. Swanson.

The judgment is affirmed. Stein, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A091530 -- Christine Rohde v. Pittsburg Unified School District et al.

The judgment is affirmed. Marchiano, J. We concur: Strankman, P.J., Swager, J. (Not for Publication.)

A091608 -- In re Mariah A., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Marchiano, J. We concur: Strankman, P.J., Stein, J. (Not for Publication.)

A091709 -- In re Michael J., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Marchiano, J. We concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A091160 -- In re Deandre L., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Strankman, P.J. We concur: Stein, J., Marchiano, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, February 13, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Lambden, J., Ruvolo J. and S. Graham, Deputy Clerk

- A088020 Marilyn Renfro, et al.
v.
California Highway Patrol
Cause called and argued by Scott Righthand, counsel for appellants and Stephen James Egan, counsel for respondent. Cause ordered submitted.
- A090303 Cross-Connection Control Consultants, Inc.
v.
Alameda County Water District
Cause called and argued by Daniel Joseph Mash, counsel for appellant and Stephen B. Peck, counsel for respondent. Cause ordered submitted.
- A087168 Pillsbury, Levinson & Mills
v.
Blossom Lum Jang
Cause called and argued by James Madow, counsel for appellant Pillsbury, John Carey, counsel for appellant Jang and James P. Green, counsel for appellant Levine. Cause ordered submitted.
- A090678 Estate of William M. Meagher, Conservatee
Edward Ardzrooni
v.
Jeanne Copeland, etc.
Cause called. Michael Dougherty appeared on behalf of respondent. No appearance was made on behalf of appellant. The argument was deemed waived.

Court recessed until 1:30 p.m.

Court reconvened in its courtroom at 1:30 p.m. Present: Kline, P. J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

- A088167 The People

v.

Thomas Clifton Jones

Cause called and argued by Jeffrey Alan Glick, counsel for appellant and Lisa Ashley Ott, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

DIVISION TWO

Tuesday, February 13, 2001 (Continued)

A090077 The People
 v.
 Fredric Ferguson
Cause called and argued (telephonically) by R. Bruce Finch, counsel for appellant and Amy Haddix, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Lambden left the bench and Justice Ruvolo joined the bench.

A090440 Insurance Commissioner of the State of California
 v.
 Professionals Prototype 1 Insurance Co., et al.
Cause called and argued by Robert Jorio, counsel for appellant and Julian O. Standen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recessed until Wednesday, February 14, 2001 at 9:30 a.m.

Division Three

A088568 -- Louis A. Gordon v. Don Horsley et al.

By the Court: The petition for rehearing is denied. McGuiness, P. J.

A088941 -- Henry Holland v. Morse Diesel International, Inc., et al.

The judgment is reversed. Holland shall recover his costs on appeal.

Parrilli, J. We concur: McGuiness, P.J. Corrigan, J. (Certified for Publication.)

Division Four

A089758 -- Andrew P. v. The Regents of the University of California.

The order is affirmed. Reardon, Acting P.J. We concur: Kay, J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, February 13, 2001 (continued)

A089788 -- Ethan Berry v. Kim Walker.

The order is affirmed with costs to Mother. Kay, J. We concur: Reardon, Acting P.J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A089559 -- James D. Golladay v. Envirodyne Corporation, etc.; John Thomas Coburn.

The judgment notwithstanding the verdict is reversed and remanded with instructions to reinstate the judgment for Golladay pursuant to the jury's verdict on the action on the promissory note. In all other respects the judgment is affirmed. Jones, P.J. We concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 14, 2001

Division One

A092519 -- In re Akacia H., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Jeremy F.

By the Court: Respondent's motion to dismiss the above-referenced appeal is granted and the appeal is dismissed. Strankman, Administrative P. J.

A090980 -- In re Patrick R., a Person Coming Under the Juvenile Court Law.

Order Modifying Opinion and Denying Petitioner Change in Judgment. The Court: It is ordered that the opinion filed herein on January 24, 2001, be modified as follows: (See order.) The petition for rehearing is denied. This modification changes the judgment. Strankman, A.P.J.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, February 14, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Lambden, J. and I. Santos, Deputy Clerk.

A090565 The People,
 v.
 Robert Damien Brewer.
Cause called and argued by Eric Liberman, counsel for appellant, via teleconference, and Joan Killeen, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point of the proceedings, Justice Kline left the bench and Justice Ruvolo joined the bench for the remainder of the calendar.

A090581 Safira Court Homeowners Association,
 v.
 David Kroopnick.
Cause called and argued by Stephen L. Barbose, counsel for appellant, and Robert Schmidt, counsel for respondent. Cause ordered submitted.

A090297 Gerald Grahm et al.,
 v.
 Tosco Refining Company.
Cause called and argued by Lloyd F. LeRoy, counsel for appellant, and Eugene Brown, Jr., counsel for respondent. Cause ordered submitted.

A088780 Bonnie Brock,
 v.
 Mark Comings.
Cause called and argued by Daniel C. Payne, counsel for appellant, and Glenn Philip Zwang, counsel for respondent. Cause ordered submitted.

Court adjourned.

Wednesday, February 14, 2001 (continued)

Division One

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A093875 -- In re Johnathan Bowen, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A091277 -- The People v. James L. Meyers.

The judgment is affirmed. Kline, P. J. We concur: Haerle, J., Lambden, J.
(Not for Publication.)

A087477 -- The People v. Alfonso Panky.

The judgment is reversed. Kline, P. J. We concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

A091722 -- The People v. Kenneth Allan Benford.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P. J. Lambden, J. (Not for Publication.)

A091805 -- In re Deric Dwayne M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Ruvolo, J. We concur: Haerle, Acting P. J. Lambden, J. (Not for Publication.)

Division Four

A083992 -- The People v. Steven Thomas Gangbin.

The Court:* The order denying reinstatement of the complaint is reversed.
(Not for Publication.)

*Reardon, Acting P.J., Sepulveda, J., Kay, J.

Thursday, February 15, 2001

Division One

A093653 -- Mario A. Morales v. Carlos Mosteiro, et al,

By the Court: Appellant having failed to file a docketing statement in compliance with rule 2(a), First District Local Rules, after notice given dated 2-1-01, the appeal is dismissed. Strankman, P.J.

A092650 -- Joel Ventresca et al. v. The City and County of San Francisco Board of Supervisors.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.

Division Two

A093951 -- Alden Troy Loft v. The Superior Court of Alameda County; The Money Store et all, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P. J.

A087927 -- The People v. Marquez Emon Sherouse.

The judgment is affirmed. Lambden, J. We concur: Kline, P. J., Ruvolo, J. (Not for Publication.)

A090786 -- Jeffrey Anthony Franklin v. Steven Cambra, Jr., et al.

The judgment is affirmed. Kline, P. J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A089605 -- The People v. Leon Henry Wilson.

The judgment is affirmed. Lambden, J. We concur: Kline, P. J., Haerle, J. (Not for Publication.)

Thursday, February 15, 2001 (continued)

Division Three

A087017 -- The People v. Jose Fuentes.

By the Court: The petition for rehearing is denied. McGuiness, P. J.

A091729 -- The People v. Randy Anthony Alyea.

The judgment is affirmed. McGuiness, P. J. We concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A086668 -- Brenda Hilton v. Randy Wilson.

The appeal is dismissed for failure to provide an adequate record.
(*Webman v. Little Co. of Mary Hospital* (1995) 39 Cal.App.4th 592, 595.)
Parrilli, J. We concur. McGuiness, P.J., Walker, J. (Not for Publication.)

Thursday, February 15, 2001 (continued)

Division Four

A093065 -- Carrie Martinez v. The Superior Court of San Francisco County; Marlon Musselman, R. P. I.

Therefore, let a peremptory writ of prohibition issue restraining the respondent superior court from taking any action to enforce its order granting defendant Marlon Musselman's motion for leave to file cross-complaint, filed in San Francisco Superior Court No. 307855 on September 15, 2000, which is hereby annulled.

Defendant shall bear the costs of this proceeding. (Cal. Rules of Court, rule 56.4.)

The stay previously imposed by this court shall remain in effect until the remittitur issues. (Cal. Rules of Court, rule 25(a).) This opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Reardon, Acting P.J. We concur: Kay, J., Chiantelli, J.* (Not for Publication.)

* Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

Division Five

Thursday, February 15, 2001

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., and Richman, J., on assignment by the Chief Justice and Richard H. Sandvik, Deputy Clerk.

- A089663 John Allison et al.
 v.
 George A. Barger
 Motion called and argued by Gerald R. Barrick, counsel for appellant, and by Timothy A. Lundell, counsel for respondents. Submission deferred.
- A089856 Real Estate Commissioner of the State of California
 v.
 Bagnol Group Applicants
 R-2768 Group
 Motion called and argued by Gerald R. Barrick, counsel for appellant, and by Timothy A. Lundell, counsel for respondent. Submission deferred.
- A092772 Storek & Storek, Inc., et al.
 v.
 Citicorp Real Estate, Inc.
 Motion called and argued by Jerome B. Falk, Jr., counsel for appellant and by Douglas W. Beck, counsel for respondents. Motion to disqualify ordered submitted.
- A088186 Restaurant XYZ et al.
 v.
 Jack Jair et al.
 Cause called and argued by Paul E. Vallone, counsel for appellants, and by Arthur J. Lempert, counsel for respondents. Cause ordered submitted.
- A089821 Insurance Commissioner of the State of California
 v.
 Golden Eagle Insurance Company
 Villa Ford, Inc.
 Cause called and argued by Howard M. Jaffe, counsel for appellant, and by, Steven M. Cvitanovic, counsel for respondent. Cause ordered submitted.

A091464 Chista Ison, a Minor, etc., et al.

v.

Eric Spitzbberg

Cause called and argued by James E. Wright, counsel for appellants, and by Denise Billups-Slone, counsel for respondent. Cause ordered submitted.

Thursday, February 15, 2001 (continued)

- A090797 In re the Marriage of Evelyn Low and Chester Chin
 Evelyn Low
 v.
 Chester Chin
 Cause called and argued by Bernard N. Wolf, counsel for appellant, no appearance
 by respondent. Cause ordered submitted.
- A091907 Miyasato Sloan
 v.
 Fireman's Fund Insurance Co.
 Cause called and argued by David J. Mattingly, counsel for appellant, and by David
 W. Gordon, counsel for respondent. Cause ordered submitted.
- A091772 Gerald Grover
 v.
 Bay View Bank
 Cause called and argued by Linda L. Mallette, counsel for appellant, and by Neil J.
 Rubenstein, counsel for respondent. Cause ordered submitted.
- A088317 Milagro Guardao
 v.
 University of California Medical Center et al.
 Cause called and argued by Ryan A. Kent, counsel for appellant, and by Carol Oill,
 appearing by teleconference, counsel for respondents, arguing . Cause ordered
 submitted.
- A090375 The People
 v.
 Stanley Martin Huck
 Cause called and argued by Jeffrey A. Glick, counsel for appellant, and by Eric D.
 Share, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court adjourned at 12:16 p.m.

Friday, February 16, 2001

Division One

A089601 -- The People v. Josman Abel Perez.

The judgment is affirmed. Strankman, P. J. We concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A091820 -- In re Rita H. et al., Persons Coming Under the Juvenile Court Law.

The orders are affirmed. Kline, P. J. We concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A089003 -- The People v. Daniel Justice Briscoe.

The conviction and sentence are affirmed. Walker, J. We concur: Corrigan, Acting P. J., Parrilli, J. (Not for Publication.)

A090069 -- In re Otis L., a Person Coming Under the Juvenile Court Law.

We have reviewed the entire record and find no errors in the proceedings and no issues requiring further briefing. The jurisdictional and dispositional orders are affirmed in their entirety. Walker, J. We concur: McGuinness, P. J., Corrigan, J. (Not for Publication.)

A092057 -- The People v. Timmy Steve Stanley.

Affirmed. Walker, J. We concur: Corrigan, Acting P. J., Parrilli, J. (Not for Publication.)

Friday, February 16, 2001 (continued)

Division Four

A091213 -- In re Charles F., a Person Coming Under the Juvenile Court Law.

Judgment affirmed. Reardon, Acting P. J. We concur: Sepulveda, J., Kay, J. (Not for Publication.)

A090945 -- In re Jeremiah J., a Person Coming Under the Juvenile Court Law.

The orders declaring the minor a ward of the juvenile court and committing him to 90 days at a juvenile facility are affirmed. Sepulveda, Acting P.J. We concur: Kay, J. Chiantelli, J.*

* Judge of the San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A085232 -- The People v. Byron Levingston.

By the Court: Appellant's petition for rehearing is denied. The opinion, filed on January 23, 2001, is modified as follows. (See order.) This change does not affect the judgment. Jones, P. J.

A091686 -- The People v. Rene E. Pike.

The judgment is affirmed. Richman, J.* We concur: Jones, P. J. Stevens, J. (Not for Publication.)

* Judge of the Alameda Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, February 16, 2001 (continued)

A090500 -- The People v. James Morris.

The judgment is affirmed. Richman, J.* We concur: Jones, P. J. Stevens, J. (Not for Publication.)

* Judge of the Alameda Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091402 -- In re Porchia and Ashley J., Persons Coming Under the Juvenile Court Law.

The orders terminating parental rights are affirmed. Richman, J.* We concur: Jones, P. J. Stevens, J. (Not for Publication.)

* Judge of the Alameda Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, February 20, 2001

Division One

A090988 -- The People v. Deborah Denise Foster.

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Three

A085960 -- The People v. Michael Harold Omstead.

A088258 -- In re Michael Harold Omstead on habeas corpus.

The judgment is affirmed. The habeas corpus petition is denied. Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A091395 -- In re Brittany R., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court, terminating appellant's parental rights, is affirmed. McGuinness, P. J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A087800 -- Chateau Calistoga Mobilehome Park v. City of Calistoga.

The Court: The petition for rehearing filed by appellant on February 13, 2001, is denied. The opinion filed herein on January 31, 2001, is ordered modified at page 3, paragraph 2, which begins "Appellant's reliance on language in Marin . . .," by: (See order.) There is no change in the judgment. Reardon, Acting P.J. (Not for Publication.)

Tuesday, February 20, 2001 (continued)

Division Five

A091254 -- In re Edgar D., a Person Coming Under the Juvenile Court Law.

The matter is remanded to the juvenile court, with directions to correct the jurisdictional order in accordance with this opinion. The jurisdictional and dispositional orders are otherwise affirmed. Stevens, J. We concur. Jones, P. J., Richman, J.*

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 21, 2001

Division One

A089962/A090926 -- City of Livermore v. Damian Ltd., et al.

By the Court: The petition for rehearing is denied. Stein, Acting P. J.

A089817 -- O. K. Investments, Inc. v. Marco Polo Garbarino et al.

By the Court: Appellant's request for extension of time to file petition for rehearing is denied due to failure to demonstrate good cause and late filing does not allow time for respondent's response. Marchiano, Acting P. J.

A091831 -- The People v. Carla Nina Bischof.

The judgment is affirmed. Marchiano, J. We Concur: Strankman, P. J., Swager, J. (Not for Publication.)

A091000 - The People v. Kevin Randall Goosby.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P. J., Marchiano, J. (Not for Publication.)

Division Two

A093452 -- Great Lakes Reinsurance Company et al. v. The Superior Court of Alameda County; California Builders Risk Association et al., R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P. J.

A086821 -- In re Cleavon M., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Ruvolo, J. We concur: Kline, P. J., Lambden, J. (Not for Publication.)

Wednesday, February 21, 2001 (continued)

A093933 -- PI Kappa Alpha et al. v. The Superior Court of Alameda County; Douglas A. Wright, R.P.I.

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

A087855 & A089059 -- In re Vincent C., a Person Coming Under the Juvenile Court Law.

The orders challenged on each appeal are affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A091442 -- In re Kevin C.-S., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A093983 -- Joann Orey v. The Superior Court of The San Francisco County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate is denied for failure to file petition in compliance with *Sherwood v. Superior Court* (1979) 24 Cal.3d 183 and California Rules of Court, rule 56 subdivision (c) The petition is also not verified. (*Star Motor Imports, Inc. v. Superior Court* (1979) 88 Cal.App.3d 201. Kline, P.J.

A082193 -- The People v. Henry Thompson.

We affirm. Haerle, J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Wednesday, February 21, 2001 (continued)

Division Three

A093967 -- Harry J. Williby v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A090569 -- The People v. Rene Daniel Bravo.

The order is affirmed. Parrilli, J. We Concur: Corrigan, J., Walker, J.
(Not for Publication.)

A088403 -- The People v. Anthony Sherwin Donahue.

Affirmed. Walker, J. (See concurring opinions by Corrigan, Acting P.J. and Parrilli, J.)

A091474 -- The People v. McCroy Mitchell.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A084777 -- The People v. Shannon Secrease.

The sentence is vacated and the matter is remanded for resentencing to allow the trial court to exercise its discretion pursuant to section 190.5, either to sentence defendant to a term of 25 years to life, or to the term of life imprisonment without the possibility of parole, as previously imposed. After resentencing, the court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects the judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 21, 2001 (continued)

Division Five

A089759 -- The People v. Rodney Newell.

The matter is remanded to the trial court with directions to strike the two one-year prison term enhancements and issue an amended abstract of judgment. The judgment is otherwise affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090640 -- The People v. Dagoberto Solis.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, Wednesday, February 22, 2001

Division One

A090310 -- Joel Guzman v. Allied Sysco Food Services, Inc.

The judgment is affirmed. Costs are awarded to respondent. Swager, J.
We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A087549 & A088650 -- Hung Nguyen et al. v. Philip Lien.

The judgment for attorney fees is reversed and in all other respects the
judgment is affirmed. Costs are awarded to respondent. Swager, J. We Concur:
Strankman, P.J., Stein, J. (Not for Publication.)

**A093479 -- In re Jonathan W., a Person Coming Under the Juvenile
Court Law. The People v. Jonathan W.**

By the Court: Appellant having filed an abandonment of appeal in this
court, the appeal is dismissed and the remittitur is to issue forthwith. Strankman,
P.J.

Division Two

A088167 -- The People v. Thomas Clifton Jones.

The judgment is reversed and the matter remanded for proceedings
consistent with the views expressed herein. Kline, P.J. We Concur: Haerle, J.,
Lambden, J. (Not for Publication.)

**A094032 -- Ali Mirzai and Hassan Afare v. The Superior Court of
Alameda County, Joseph Matossian, R.P.I.**

By the Court: The petition for writ of prohibition/mandate/stay is denied.
Kline, P.J.

Thursday, February 22, 2001 (continued)

Division Three

A090196 -- The People v. Allen Leonard Dobshinsky.

Affirmed. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A088850 -- The People v. Darryl Geyer.

Affirmed. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A091014 -- The Mechanics Bank, as Trustee, etc. v. Heidi Zwakenberg et al.

By the Court: Order Modifying Opinion and Denying Rehearing. It is ordered that the opinion filed herein on February 9, 2001, be modified in the following particular: (See order.) The petition for rehearing is denied. There is no change in the judgment. Corrigan, Acting P.J. (Not for Publication.)

Division Four

A091749 -- The People v. Saul A. Hernandez.

The trial court did not err in denying defendant's motion to suppress. The judgment is therefore affirmed. Sepulveda, Acting P.J. We Concur: Kay, J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088753 -- Naomi Sosnick v. Robert Sosnick.

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, February 22, 2001, (continued)

Division Five

A089583 -- The People v. James Arthur McPherson.

The order is affirmed. Richman, J.* We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief
Justice pursuant to article VI, section 6 of the California Constitution.

**A092026 -- In re Eduardo D., a Person Coming Under the Juvenile
Court Law. The People v. Eduardo D.**

The order adjudicating appellant a ward of the court pursuant to Welfare
and Institutions Code section 602 and committing him to the CYA is affirmed.
Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, February 23, 2001

Division One

A089731 -- Hillside Park East Homeowners Association, Inc. v. Marco A. Vidal Properties et al.

Substantial evidence supports the determination that the settlement was agreed to by counsel and by appellant personally. There was no abuse of discretion. The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J., Stein, Acting P.J. (Not for Publication.)

A089041 -- The People v. Aaron Jones.

The order denying the motion to strike is reversed. The matter is remanded for an evidentiary *Coffey* hearing on the motion to strike. Marchiano, J. We Concur: Stein, J., Swager, J (Not for Publication.)

Division Two

A093180 -- Steven D. v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/prohibition/habeas corpus/stay is denied. Lambden, Acting P.J. (Kline, P.J. would grant petition.)

Division Three

A088390 -- Arley E. Anthony et al. v. General Insurance Company of America.

We conclude the trial court correctly ruled that the insuring provision was not susceptible to any reasonable interpretation that would bring Abell's spoliation claims against Anthony even potentially within its meaning. Therefore General had no duty to defend against them. The judgment is affirmed. Costs are awarded to Respondent. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Friday, February 23, 2001 (continued)

A093161 -- Kristine H. v. The Superior Court; Social Services Agency et al.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for February 26, 2001, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A086668 -- Brenda Hilton v. Randy Wilson.

Order Modifying Opinion . The Court: It is ordered that the opinion filed herein February 15, 2001, be modified as follows: (See opinion.) There is no change in the judgment. McGuiness, P.J.

A085525 -- The People v. Marilyn Mackey.

A090774 -- In re Marilyn Mackey, on Habeas Corpus.

The judgment is affirmed. The petition for writ on habeas corpus is denied. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Division Five

A089635 -- Muriel Gordon v. David B. Nemer, Jr.

The judgment is affirmed. Costs on appeal are awarded to respondent. Richman, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091464 -- Christa Ison, a Minor, etc., et al. v. Eric Spitzberg, M.D.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, February 23, 2001 (continued)

A088186 -- Restaurant XYZ v. Jack Jair et al.

The order is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.*
(Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief
Justice pursuant to article VI, section 6 of the California Constitution.

Monday, February 26, 2001

Division Two

A091359 -- Susan Au-Yang v. Neil Barton, et al.

The order is affirmed. The parties are to bear their own costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A094043 -- In re Ernest J. Echols, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A089740 -- The People v. Richard Garfield Hight.

The judgment is reversed, with instructions to the trial court to enter an order granting appellant's motion to suppress pursuant to Penal Code section 1538.5. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A094093 -- Gerald Jones v. The Superior Court of Marin County, The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

Division Three

A086928 -- Annette LeRoy et al. v. Borel Bank & Trust Company.

The trial court's order denying appellants petition to remove Borel as trustee is affirmed. We remand Borel's petition to approve the Unocal agreements for reconsideration in accordance with the directions specified in this opinion. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A087879 -- Estate of John Henry Pickens.

The order admitting the will to probate is affirmed. Middleton shall recover her costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Monday, February 26, 2001 (continued)

Division Four

A089737 -- Michael Kinney v. CSB Construction , Inc.

By the Court: Order Denying Rehearing and Modifying Full Publication. On January 30, 2001, this opinion was certified for publication. For good cause, pursuant to California Rules of Court, rules 976(b) and 976.1, the court now orders this opinion be certified for publication with the exception of part II. The petition for rehearing is denied. There is no change in judgment. Reardon, Acting P.J.

A090978 -- In re T.R., a Person Coming Under the Juvenile Court Law.

The order appealed from is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Division Five

A084426 -- The People v. Aldridge Currie.

By the Court: The opinion in the above-entitled matter filed on January 30, 2001, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be partially published in the Official Reports, and it is so ordered. Pursuant to California Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication with the exception of parts II.B through II.G. It is further ordered that the opinion be modified as follows: (See order.) Appellant's petition for rehearing is denied. This modification does not effect a change in the judgment. Jones, P.J. (Certified for Partial Publication.)

Tuesday, February 27, 2001

Division One

A092050 -- The People v. Thomas Wayne Bland.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

Division Two

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A091800 -- In re Srna M., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A091208 -- In re Joseph R., a Person Coming Under the Juvenile Court Law.

The dispositional order is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J.

Division Three

A089599 -- The People v. Jimmy Ray Crisswell.

The judgment is reversed insofar as it finds the prior serious felony conviction allegation to be true and the matter is remanded for a retrial on that allegation. The sentence previously imposed is vacated pursuant to our conclusion regarding the prior conviction. In all other respects the judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A089715 -- The People v. Jeffrey Grimes.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

Tuesday, February 27, 2001 (continued)

A090628 -- The People v. Josep Herron.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A090273 -- The People v. Jonathan Leroy MacIntyre.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A088781 -- Barbara Sierra et al. v. Great American Insurance Company et al.

By the Court: The petition for rehearing and request for publication is denied. McGuiness, P.J.

Division Four

A088368, A088539 -- Richard Van Ness v. Blue Cross of California.

We affirm the judgment. Reardon, Acting P.J. We Concur: Sepulveda, J., Chiantelli, J.* (Certified for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 28, 2001

Division One

A090816 -- In re Nicolette B., a Person Coming Under the Juvenile Court Law.

The orders are affirmed. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A092217 -- League For Protection of Oakland's Architectural and Historic Resources v. City of Oakland, et al.

By the Court: Appellant has filed an abandonment of its appeal and requests its dismissal. The appeal' is dismissed and the clerk is directed to issue the remittitur immediately. (Cal. Rules of Court, rule 19(a).) Costs on appeal to respondents. Stein, Acting P.J.

A092603 -- The People v. Gerald N. Lee.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

A090084 -- The People v. Shawn Jeanise Washington.

The judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Stein, Acting P.J. (Not for Publication.)

Division Two

A090575 -- Michael Cipriano et al. v. Stephen A. Moser.

The judgment is affirmed. Costs on appeal are awarded to the Ciprianos. Each party to bear its own attorney fees incurred on appeal. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A093548 -- Ronald L. Jones et al. v. The Superior Court of San Francisco County; Hewlett-Packard Company, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Petitioners' motion to seal exhibits 30, 31 and 32, which were sealed by the trial court, is granted. Kline, P.J.

Wednesday, February 28, 2001 (continued)

A086898 -- The People v. Wesley Eugene White.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.
(Not for Publication.)

Division Three

A089185 -- American Cemwood Corporation et al. v. American Home Assurance Company et al.

The order granting a stay is reversed and the matter is remanded to the trial court for further proceedings. All parties are to assume their own appellate costs. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Publication.)

A091640 -- Steve Austin et al. v. Lourdes U. Wilcox.

In sum, we find no abuse of discretion on the part of the trial court. The order denying recovery of legal fees is affirmed. Wilcox to bear costs of appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A091039 -- In re Shawn B., a Person Coming Under the Juvenile Court Law.

The dispositional order of the juvenile court is affirmed. McGuinness, P.J. We Concur: Corrigan, J. Parrilli, J. (Not for Publication.)

A091894 -- Estate of Everett L. Bibb, Jr., Deceased.

Reversed with respect to the Rolls Royce. Affirmed in all other respects. Parties are to bear their own costs on appeal. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Certified for Partial Publication.)

A091257 -- The People v. Keith Mills.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Wednesday, February 28, 2001 (continued)

A090412 -- The People v. Ledell Moss.

Affirmed. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A089920 -- In re Alex R. et al., a Person Coming Under the Juvenile Court Law.

The juvenile court's orders are affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A090745 -- In re Marriage of Eleanor M. Stephens and Donald A. Stephens.

The order is reversed. Donald shall recovery his costs on appeal. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

A088599 -- Antonitte Beck et al. v. The Superior Court of San Mateo County; Avon Products, Inc.

Let a writ of mandate issue directing respondent superior court to vacate that portion of its "Recommendation #9 and Order" directing that petitioner submit to patch testing involving the application of the subject product, or any of the AHA ingredients of the subject product, to her body. All other portions of "Recommendation #9 and Order" may remain in effect. Hanlon, P.J.* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

*Retired Presiding Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Four

A090885 -- The People v. Johnny Travis

The judgment of conviction is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Chiantelli, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 28, 2001 (continued)

Division Five

A091772 -- Gerald Grover v. Bay View Bank

We affirm the judgment. Jones, P.J. We Concur: Stevens, J. Richman, J.*
(Certified for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089749 -- The People v. v. Health Laboratories of North America, Inc. et al.

Order Modifying Opinion and Certifying Opinion for Publication. The Court: The opinion in the above-entitled matter filed on January 30, 2001, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official reports and it is so ordered. It is further ordered that the opinion be modified as follows: (See Order.) There is no change in the judgment. Jones, P.J. (Certified for Publication.)